IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12139 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAWANI RAMESHBHAI JADHAVBHAI 3RD SPECIAL LAND ACQUISITION

Versus

STATE OF GUJARAT & 1

Appearance:

MR BM MANGUKIYA for Petitioner

MR SAMIR DAVE for MR SP HASURKAR for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/09/2000

ORAL JUDGEMENT

1. The counsel for the petitioner prays for withdrawal of this special civil application as the respondents have already withdrawn the chargesheet against him. He submits that liberty may be granted to the petitioner for filing of fresh petition in case the

occasion arises re. the prayer which has been made by the petitioner in para-8 (C) of the special civil application.

2. The petitioner prays for grant of this liberty on the ground that in case for the same relief as prayed for, the petitioner files the petition then this Court may possibly reject the same on the ground that the same is not maintainable. In support of this contention, he placed reliance on few decisions of this Court.

3. I fail to see any justification in this contention of the learned counsel for the petitioner. It is only an apprehension. Otherwise also, if we go by the prayer made in the petition, this prayer is only a consequential prayer and not substantial prayer. Once the chargesheet has been withdrawn, the case of the petitioner has to be considered for deemed date of promotion to the higher post. If ultimately, the petitioner succeeds he will be given the promotion but in case where promotion is not given, it is always open to him to take appropriate legal redressal remedy available and withdrawal of this petition will not come in the way of the petitioner in availing of that remedy. It will be a fresh cause of action. The special civil application is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

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